

***GUARANTEE FEE  
TAX CREDIT PROGRAM***

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**Application & Guidelines  
October 2005**

**Missouri Department of Economic Development**  
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# **GUARANTEE FEE TAX CREDIT APPLICATION GUIDELINES**

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**EFFECTIVE AUGUST 28, 2005, AND PURSUANT TO SECTION 620.1900, RSMO, THIS TAX CREDIT PROGRAM IS SUBJECT TO A FEE OF 2.5% OF THE AMOUNT OF TAX CREDITS ISSUED. APPLICANTS WILL BE INVOICED FOR THE FEE AFTER THE TAX CREDIT APPLICATION HAS BEEN APPROVED. TAX CREDITS WILL BE ISSUED UPON RECEIPT OF THE FEE.**

## **OVERVIEW**

The program provides state tax credits to an “eligible small business” for the amount of a guarantee fee paid to either the U.S. Small Business Administration or the U.S. Department of Agriculture for a small business loan. The tax credits may be used to offset Missouri State Income Taxes (Chapter 143, RSMo, not including withholding taxes pursuant to Sections 143.191 to 143.265, RSMo) in the tax year the guarantee fee was paid. The tax credits may not be carried forward to future tax years, or sold/transferred to other taxpayers.

## **ELIGIBILITY**

Eligible Small Business - Section 135.766, RSMo, as defined in Section 44 of the Internal Revenue Code:

1. Gross receipts for the preceding taxable year of no more than \$1,000,000; or
2. No more than 30 full-time employees during the preceding taxable year at all facilities.  
(For purposes of paragraph (2) an employee shall be considered full-time if such employee is employed at least 30 hours per week for 20 or more calendar weeks in the taxable year. “Preceding tax year” would be the 2003 tax year for Guarantee Fees paid in 2004.)

### **SBA Guarantee Programs Applicable To The Credit**

1. 7(a)
2. CAPLines
3. Defense Loan & Technical Assistance (DELTA)
4. Export Working Capital Program (EWCP)
5. International Trade Loan (ITL)
6. 504 Loans
7. Community Adjustment & Investment (CAIP)
8. Pollution Control Loans
9. Export Express
10. SBA Express
11. Community Express
12. Low Doc Program
13. Prequalification Loans
14. Qualified Employee Trusts Loan Program
15. Micro-Loans
16. Energy Conservation Loans

### **USDA Guaranteed Loans Applicable To The Credit**

1. Business and Industry Guaranteed Loans
2. Renewable Energy and Energy Efficiency Program (REEEP) Loans

## **APPLICATION PROCEDURE**

Submit the application and attachments after the guarantee has been approved and the loan has been disbursed. (The guarantee fees are paid to SBA/USDA from the loan proceeds). The application must be submitted within one year from the date that the loan is disbursed to the borrower or the credit request cannot be approved.

**\*NAICS (North American Industry Classification System):** The Federal Office of Management and Budget (OMB) adopted the NAICS as the industry classification system used by the statistical agencies of the United States. NAICS replaces the 1987 Standard Industrial Classification (SIC). The NAICS is used for classifying business establishments to assist with gathering data related to measuring productivity, unit labor costs, and the capital intensity of production, employment and other information. Missouri businesses are assigned a NAICS when the company files a "Report to Determine Liability Status" with the Missouri Department of Labor and Industrial Relations, Division of Employment Security to determine Unemployment Tax Liability. Normally, a general business employer becomes liable for the tax and responsible for providing unemployment insurance for its workers when it:

- Pays \$1,500 in wages (cash and in-kind) in a calendar quarter, or
- Has an employee in some portion of a day in each of 20 different weeks, or
- Becomes liable under the Federal Unemployment Tax Act (FUTA) and employs a worker in Missouri, or
- Acquires and continues without interruption substantially all the business of a liable employer.

### **Include with the application:**

1. Complete copy of original loan agreement signed between the applicant and U.S. Small Business Administration or the U.S. Department of Agriculture.
2. Documentation that the lender has disbursed the loan.

**Submission:** Application forms can be mailed to the following address. Applications will not be processed without the original.

Missouri Department of Economic Development  
301 West High Street, Room 770  
P.O. Box 118  
Jefferson City, MO 65102

For further information, contact the Department of Economic Development:

Phone: 573-522-4216

Email: [dedfin@ded.mo.gov](mailto:dedfin@ded.mo.gov)

Website: [www.missouridevelopment.org](http://www.missouridevelopment.org)

**\*Refers to question 5 of the application. This information is required pursuant to Senate Bill 1099.**

# NOTICE

The Tax Credit Accountability Act of 2004 (Senate Bill 1099, Sections 135.800 through 135.830, RSMo) makes several changes to the tax credit programs, specifically:

- Processing tax credit applications;
- Annual reporting requirements; and,
- Penalty provisions.

## **Changes in Processing of Tax Credits (Section 135.815, RSMo)**

Prior to the Missouri Department of Economic Development (DED) authorization of a tax credit, the DED will contact the Departments of Revenue and Insurance and verify that the applicant does not owe any delinquent income, sales, use, or insurance taxes, or interest or penalties on such taxes. If a delinquency exists, the amount of tax credits issued will be reduced by the amount of the delinquency. After satisfying all delinquencies, the remaining credits shall be issued.

## **Reporting Requirements (Section 135.805, RSMo)**

Certain tax credit recipients are required to annually report information pertaining to the project that received the tax credits to the DED. The statute requires that a full year pass after the issuance of the tax credits before SB 1099 reporting requirements must be met. The earliest date that reporting may be required is June 30, 2006.

The Entrepreneurial Category of tax credits, which includes the Guarantee Fee Tax Credit program, requires recipients to annually report for three (3) years following the date of issuance of the tax credits to the DED the following information:

- Amount of investment; and,
- Names of the project, fund and research project.

## **Penalty Provisions (Section 135.810, RSMo)**

Failure to meet the annual reporting requirements or fraud in the application process if determined by a court, such person or entity shall be subject to penalties.

If the annual report is ninety (90) days past due, the DED shall send notice by registered mail to the last known address of the person or entity who is required to complete the annual report. The notice shall inform the person or entity of the past-due report and the pending penalties and their respective deadlines.

If the annual report is six (6) months past due, the DED shall notify the Department of Revenue that the taxpayer is subject to penalties because of failure to report.

Such penalties include the following:

- Failure to report for six (6) months but less than one year shall equal a penalty of two percent (2%) of the value of the tax credits issued for each month of the delinquency.
  - EXAMPLE: Recipient receives \$10,000 in tax credits. Annual report is due June 30, 2006, however, the recipient does not submit the report until March 30, 2007. The recipient is nine (9) months delinquent and the penalty would equal 2% multiplied by \$10,000 for nine (9) months or \$1800.
- Failure to report for more than one (1) year shall equal a penalty of ten percent (10%) of the value of the credits issued for each month of the delinquency, not to exceed one hundred percent (100%) of the tax credit value.

- EXAMPLE: Recipient receives \$10,000 in tax credits. Annual report is due June 30, 2006, however, the recipient does not submit the report until March 30, 2008. The recipient is twenty-one (21) months delinquent and the penalty would equal 10% multiplied by \$10,000 for twenty-one (21) months or \$21,000, however, the statute limits the penalty to the amount of the tax credits, therefore, the penalty would be \$10,000.

The taxpayer shall be liable for any penalties as of December 31 of any tax year and the liability shall be due as of the filing date of the taxpayer's next income tax return.

If the taxpayer is not required to file an income tax return, the taxpayer's liability for penalties shall be due as of April 15<sup>th</sup> of each year.

The Director of the Department of Revenue shall offset any tax credits claimed on a filed tax return against an outstanding penalty before applying such credits to the tax year against which they were originally claimed.

Any nonpayment of liability for penalties shall be subject to the same provisions of law as a liability for unpaid income taxes, including but not limited to, interest and penalty provisions.

Penalties shall remain the obligation of the person or entity obligated to complete the annual report without regard to any transfer of the credits.

<b>Closed Records (Sections 610.255 and 620.014, RSMo)</b>
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Prior to August 28, 2004 and pursuant to Section 620.014, RSMo, DED had the authority to close certain records except for the name of the tax credit recipient and the amount of the tax credit. SB 1099 removes this broad exception but DED retains the authority to close records or documents that "relate to financial investments in a business, or sales projections or other business plan information which may endanger the competitiveness of a business" or as also allowed by law.

## Guarantee Fee Tax Credit Application (Section 135.766, RSMo)

ALL NECESSARY ATTACHMENTS (SEE GUIDELINES) MUST ACCOMPANY THIS APPLICATION.

FOR CALENDAR YEAR \_\_\_\_\_ OR TAX YEAR BEGINNING \_\_\_\_\_, \_\_\_\_\_ AND ENDING \_\_\_\_\_, \_\_\_\_\_

**Effective August 28, 2005, and pursuant to Section 620.1900, RSMo, this tax credit program is subject to a fee of 2.5% of the amount of tax credits issued. Applicants will be invoiced for the fee after the tax credit application has been approved. Tax credits will be issued upon receipt of the fee.**

<b>PLEASE TYPE OR PRINT</b>	NAME OF ELIGIBLE BUSINESS OR BORROWER		PHONE NUMBER		
	ADDRESS OF FACILITY (STREET AND P.O. BOX)		FEDERAL TAX I.D. NO.		
	CITY	COUNTY	STATE	ZIP CODE	MITS/MISSOURI I.D. NUMBER
	<b>MO</b>				

1. Project name and address of project site (if different from above)

\_\_\_\_\_

2.

NAME OF PERSON COMPLETING APPLICATION OR OTHER CONTACT PERSON		PHONE NUMBER	
STREET ADDRESS	CITY	STATE	ZIP CODE

3. Business entity for tax purposes

<i>C Corp</i>	<i>S Corp</i>	<i>LLC</i>	<i>Sole Proprietor</i>	<i>Partnership</i>	<i>Other: _____</i>
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NOTE: If the taxpayer is a Partnership, L.L.C., Individual proprietorship or S-Corporation, identify the names, social security numbers and proportionate share of ownership of each partner or shareholder as of the last day of the tax period. Aggregate proportionate shares or percent of total ownership may not exceed 100%. Attach a separate sheet if necessary.

NAME(S)	SOCIAL SECURITY NO.(S)	% OWNERSHIP YEAR END
	--- ---	%
	--- ---	%
	--- ---	%

4. Describe the business activities conducted at this eligible facility. Be specific.

\_\_\_\_\_

5. NAICS code for the facility (See guidelines) \_\_\_\_\_

6. Describe the intended use of the loan proceeds \_\_\_\_\_

\_\_\_\_\_

7. Total amount of investment \_\_\_\_\_

8. Amount of private investment \_\_\_\_\_

9. List any other state or federal programs being utilized for the same activity or project

\_\_\_\_\_

10. "Eligible small business" must have less than \$1,000,000 in gross receipts for preceding tax year or no more than 30 employees for the same period. (See guidelines)  
 Preceding tax year's gross receipts \_\_\_\_\_ Preceding tax year's number of employees \_\_\_\_\_
11. Employment Information: Number of current employees at all Missouri Locations: \_\_\_\_\_  
 Number of current employees at all locations nationwide: \_\_\_\_\_
12. Does the taxpayer of this facility operate any other facilities in MO besides this eligible project or facility? **Yes / No**  
 If yes, please provide an address for each \_\_\_\_\_
13. Identify the Guarantee Agency:  
 Name \_\_\_\_\_  
 Address \_\_\_\_\_
14. Identify the lender:  
 Name \_\_\_\_\_  
 Address \_\_\_\_\_
15. Amount of loan \$ \_\_\_\_\_ (**Attach documentation**)
16. Amount of Guarantee \$ \_\_\_\_\_ (**Attach documentation**)
17. Guarantee fee paid \$ \_\_\_\_\_ (**Attach documentation**)

### Certification

- I certify that I am an authorized representative of the applicant and as such am authorized to make the statement of affirmation contained herein.
- I certify that the applicant does NOT employ illegal aliens and has complied with federal law (8 U.S.C. § 1324a) requiring the examination of an appropriate document or documents to verify that an individual is not an unauthorized alien.
- I understand that if the applicant is found to have employed an illegal alien in Missouri and did not, for that employee, examine the document(s) required by federal law, that the applicant shall be ineligible for any state-administered or subsidized tax credit, tax abatement or loan for a period of five years following any such finding.
- I attest that I have read and understand the Guarantee Fee Tax Credit Program guidelines, specifically as it relates to the Tax Credit Accountability Act of 2004 (SB 1099).
- I hereby agree to allow representatives of the Department of Economic Development access to the property and applicable records as may be necessary for the administration of this program.
- I certify under penalties of perjury that the above statements, information contained in the application and attachments are complete, true, and correct to the best of my knowledge and belief.

Applicant Signature		Title	
Print Name		Date	
Notary Public Embosser Seal	Appeared before me this _____ day of _____, 20____, _____ to me personally known to be the person who executed the above certification, and acknowledged and states on his/her oath to me that he/she executed the same for the purpose therein stated.		
	State of _____		County (or City of St. Louis)
	Notary Public Name	My Commission Expires	Use Rubber Stamp in Area Below
	Notary Public Signature		

Send application and attachments to: Dept. of Economic Development, 301 W. High, PO Box 118, Suite 770, Jefferson City, MO 65102